

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKIn the Matter of
THE ARBITRATION

between

THE TRUSTEES OF THE
UNITE HERE NATIONAL HEALTH
THE TRUSTEES OF THE
UNITE HERE NATIONAL RETIREMENT FUND,
Petitioners,
and
138 TOP INC.
Respondent.

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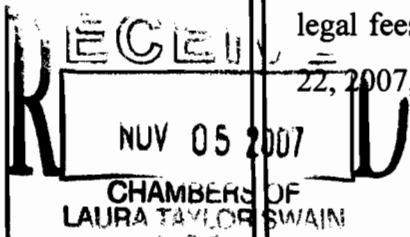
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DATE FILED: DEC 04 2007
DEFAULT JUDGMENT
07 Civ. 6927 (LTS)

The Trustees of the UNITE HERE National Health Fund and the Trustees of the UNITE HERE National Retirement Fund (hereinafter, the "Petitioner") having commenced the within proceeding on August 2, 2007 by filing a Petition to Confirm Arbitration Award (hereinafter, the "Petition"), and 138 Top Inc. (hereinafter, the "Respondent") having been duly served on August 3, 2007 with a copy of the Petition, Notice of Petition and Memorandum of Law by regular mail and certified mail, return receipt requested, and proofs of such service having been filed with the Court on August 6, 2007, and Respondent having failed to appear, answer or otherwise move with respect to the Petition, and in light of the fact that the Court is being asked to confirm a default arbitration award, and in accordance with the Second Circuit opinion in D.H. Blair & Co., Inc. -v.- Gottdiener, 462 F.3d 95 (2d Cir. 2006), this Court has examined the record upon which the underlying arbitration award was based, and finds that the record supplied to the arbitrator is a sufficient basis for the award, and the Court having issued its Order on September 26, 2007 granting the Petitioners' request to move for confirmation of the Arbitration Award and entry of judgment; it is now

ORDERED, ADJUDGED AND DECREED, that the Arbitration Award of Philip Ross, dated June 29, 2007, is hereby confirmed in all respects; and it is further

ORDERED, ADJUDGED AND DECREED, that Petitioner Trustees of the UNITE HERE NATIONAL HEALTH FUND, have judgment against Respondent 138 Top Inc. on the Arbitration Award in the principal amount of \$87,525.50 for delinquent contributions, \$11,598.33 for interest thereon through the date of the Award, \$11,598.33 for liquidated damages, \$50.00 for the Arbitrator's fees, \$100.00 for a default fee as provided in Article 26, Section 5(b) of the collective bargaining agreement underlying the Award, \$75.00 for legal fees, and \$4,376.27 for pre-judgment interest from the date of the Award to October 22, 2007, for a total of \$115,323.43; and it is further



ORDERED, ADJUDGED AND DECREED that Petitioner Trustees of the UNITE HERE NATIONAL RETIREMENT FUND have judgment against Respondent 138 Top Inc. on the Arbitration Award in the principal amount of \$2,608.00 for delinquent contributions, \$621.74 for interest thereon through the date of the Award, \$621.74 for liquidated damages \$50.00 for the arbitrator's fees, \$100.00 for a default fee as provided in Article 26, Section 5(b) of the agreement underlying the Award, \$75.00 for legal fees, and \$130.40 for prejudgment interest from the date of the Award to October 22, 2007, for a total of \$4,206.88; and it is further

ORDERED, ADJUDGED AND DECREED that Petitioners Trustees of the UNITE HERE NATIONAL HEALTH FUND and Trustees of the UNITE HERE NATIONAL RETIREMENT FUND have judgment against Respondent 138 Top Inc. for \$350.00 as costs of the instant proceeding; and it is further

ORDERED, ADJUDGED AND DECREED that interest accrues at the legal note on the damages ordered herein from the date of entry of judgment until the judgment is paid.

Dated: December 3, 2007
New York, New York



Judge Laura Taylor Swain

